

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-568329
AND ALL OTHER SEAMAN'S DOCUMENTS

Issued to: Domingo GUTIERREZ

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1672

Domingo GUTIERREZ

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 25 May, 1967, an Examiner of the United States Coast Guard at Houston, Texas, revoked Appellant's seaman's documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that while holder of the document above described, on or about 29 August 1966, Appellant was convicted of violation of 18 U.S.C. 1407 in the U.S. District Court, Southern District of Texas.

At the hearing, Appellant was represented by non-professional counsel. Appellant entered a plea of guilty to the charge and specification.

The Investigating Officer introduced in evidence copies of the indictment and of the judgment of conviction.

In defense, Appellant offered in evidence matters in mitigating.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order revoking all documents issued to Appellant.

The entire decision was served on 26 May 1967. Appeal was timely filed on 21 June 1967.

FINDINGS OF FACT

On 29 August 1966, Appellant was convicted in the U.S. District Court for the Southern District of Texas on three counts of violation of 18 U.S.C. 1407, a law requiring persons convicted of certain narcotics offenses to register with the Bureau of Customs when departing from or arriving in the United States on a foreign trip.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. I is urged that Appellant had never willfully violated any law.

APPEARANCE: Kirby - Smith McDowell, NMU, Houston, Texas.

OPINION

There is no question that Appellant was convicted of violation 18 U.S.C. 1407. The intent of the party, urged on appeal in this case, is of no weight when a conviction is considered under the terms of 46 U.S.C. 239b.

Even so, it appears from the record that one of the acts serving as a basis of one of the three counts specified in the indictment occurred after Appellant had been specifically warned by the Bureau of Customs that he must register under 18 U.S.C. 1407. It also appears that of three voyages made between Appellant's conviction and the time of hearing, he registered on only two.

Nothing has been shown here to cause, if possible, a modification of the Examiner's order.

ORDER

The order of the Examiner dated at Houston, Texas on 27 May 1967, is AFFIRMED.

P. E. Trimble
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D.C., this 20th day of December 1967.

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